International Association of Bridge, Structural, and Ornamental Iron Workers, Local 118, AFL–CIO (California Erectors, Bay Area, Inc.) ***and*** **Larry Muller.** Case 20–CB–8727

December 11, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS OVIATT AND RAUDABAUGH

On July 29, 1992, Administrative Law Judge Michael D. Stevenson issued the attached decision. The Respondent filed exceptions and a supporting brief, and counsel for the General Counsel filed a limited cross-exception and an answering brief.

The National Labor Relations board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions,[2] and to adopt the recommended Order.

Contrary to the contentions of the Respondent, in cases such as this one, in which a departure from hiring hall rules affects employment opportunities, it need not be alleged that the Union was negligent or be shown that the departure was based on invidious or unfair considerations in order to find a violation. Such departures, absent some justification related to the efficient operation of the hiring hall, are arbitrary actions and inherently breach the duty of fair representation owed to all hiring hall users and violate the Act. See *Operating Engineers Local 406 (Ford Construction)*, 262 NLRB 50, 51 (1982).

Here, the complaint alleges that the Respondent violated Section 8(b)(1)(A) and (2) by failing and refusing to refer Charging Party Muller to employment with the Employer. The General Counsel established a prima facie case that the Respondent unlawfully departed from its established hiring hall rules by failing to contact Muller about referral to the Employer's post office jobsite. The judge discredited the Respondent's assertions that Muller was present in the hall and turned down the referral. Relying on an admission against interest that a mistake had occurred, the judge further found that the failure to refer Muller was a result of ''mistake and inadvertence''—a finding which, although supported by the evidence, is not a prerequisite to finding a violation of the Act. The Respondent's articulated reason for not referring Muller having been discredited, and negligence being no defense, the failure to refer him remains unexplained and the General Counsel's prima facie case stands unrebutted. Therefore, we affirm the judge's finding that the Respondent violated the Act, as alleged in the complaint.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that Respondent, International Association of Bridge, Structural, and Ornamental Iron Workers, Local 118, AFL–CIO, Sacramento, California, its officers, agents, and representatives, shall take the action set forth in the Order.

Eugene Tom, Esq., for the General Counsel.
Sandra Rae Benson, Esq., of San Francisco, California, for the Respondent.

DECISION

STATEMENT OF THE CASE

MICHAEL D. STEVENSON, Administrative Law Judge. This case was tried before me at Sacramento, California, on March 4, 1992,[1] pursuant to a complaint issued by the Regional Director for the National Labor Relations Board for Region 20 on August 29, and which is based on a charge filed by Larry Muller (Muller or Charging Party), on July 15. The complaint alleges that International Association of Bridge, Structural, and Ornamental Iron Workers Local 118, AFL–CIO has engaged in certain violations of Section 8(b)(1)(A) and (2) of the National Labor Relations Act (the Act).

Issues

Whether Respondent violated the Act by failing and refusing to refer Muller from its hiring hall to employment with an employer with whom Respondent maintained a collective-bargaining relationship requiring that Respondent be the sole and exclusive source of employee referrals.

All parties were given full opportunity to participate, to introduce relevant evidence, to examine and to cross-examine witnesses, to argue orally, and to file briefs. Briefs, which have been carefully considered, were filed on behalf of General Counsel and Respondent.

On the entire record of the case, and from my observation of the witnesses and their demeanor, I make the following

FINDINGS OF FACT

I. THE EMPLOYER'S BUSINESS

Respondent admits that California Erectors, Bay Area, Inc. (Employer), is a California corporation which operates a con-

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

[2] It is apparent from fn. 3 of his decision that the judge confused Muller's 1989 dismissal by the Employer from a Wells Fargo project with Muller's 1991 layoff by another employer from another Wells Fargo construction project. This inadvertent error does not affect our analysis.

[1] All dates refer to 1991 unless otherwise indicated.

struction business installing structural steel, and has a place of business located in Benicia, California. Respondent further admits that during calender year 1990, in the course and conduct of its business, Employer purchased and received at its facilities within the State of California, products, goods, and materials valued in excess of $50,000 directly from points outside the State of California. Accordingly, Respondent admits, and I find that Employer is engaged in commerce and in a business affecting commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

Respondent admits, and I find, that it is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICE

A. *The Facts*

1. Statement of the case

On May 21, Respondent's officials referred two of its members from its hiring hall to a job beginning the following day in West Sacramento where Employer was erecting a United States post office building. One of the two jobs went to Jim Nyborg who did not testify in this case. The other went to Curtis Nickelson, who testified for General Counsel as a rebuttal witness. Muller admitted in his testimony that he was not a certified welder, a skill required for Nyborg's job. However, Muller also contends that he was fully qualified for Nickelson's job, called a bolt-up job, and that he was ahead of Nickelson on the out-of-work list. General Counsel argues that Respondent's failure to refer Muller rather than Nickelson constitutes a violation of the Act. To decide this issue I turn to the record.

2. Respondent's job referral procedure

Both sides stipulate that Respondent and Employer, through an employer's association, are bound to a collective-bargaining agreement for all time pertinent to this case. In pertinent part, the collective-bargaining agreement has been received into evidence. (G.C. Exh. 2.) Section 5 of that agreement provides as follows:

> Employment
>
> C—All other journeymen required by an individual employer shall be furnished and referred to such individual employer through the hiring office of the appropriate Local Union.
>
> A second relevant provision provides as follows:
>
> E—The individual employer shall have the right to reject any applicant referred by the appropriate Local Union, subject to the provisions of Section 6-E—''Show Up'' Expense and Section 9-1—''Show Up'' Expense.

Respondent's out-of-work list consists of a board in the union hiring hall on which a number of white cards are posted. On the cards are the names of those out-of-work members who are seeking work. The cards are arranged in an order signifying to union officials which members have priority, depending on when their last job ended and when they signed the Respondent's out-of-work list.

When a job order is called in to Respondent from a signatory employer, surrounding details are provided such as location of job, special skills needed, and perhaps most importantly, the expected duration of the work. All of this information is provided to out-of-work members who are required to be present in the hall between 8 and 10:30 a.m. when job orders are called in. Those members interested in the job order so indicate to Respondent's officials who then tip all interested members' cards until a final determination is made as to who is entitled to the job.

If a member lives over 35 miles from the hall, his white card on the out-of-work board is lined with a green border. These members are not required to be present during the morning job calls, but may instead stand by at home to await a telephone call from the union hall, if they qualify by virtue of their position on the board, to be offered a dispatch to a job. On Mondays, members are supposed to sign the rollcall book under penalty of being dropped from the out-of-work list. Again those members who live over 35 miles away are exempt from this requirement, but still must call in on Mondays to express continued interest in finding work and a clerical will sign the rollcall book for them. Many members living over 35 miles from the union hall will voluntarily come to the union hall on a regular or occasional basis.

One important factor for those high enough on the board to be eligible for a certain job concerns whether the employer seeking employees had exercised its rights under the collective-bargaining agreement, section 5E, recited above. If a member accepts a dispatch only to be refused employment, then the member receives show-up-time only and does not lose his place on the board. However, in some cases, the member will be put to work by jobsite supervisors, who may not know that company officials have sent a letter to Respondent giving notice that a particular member is perceived to be undesirable and will not be accepted if dispatched by the Union to a job. When this happens, company personnel officials generally become aware in a day or two that the unwanted person has been dispatched to and put to work on a job. The member is then laid off and must go to the bottom of the out-of-work board.

3. California Erectors Bay Area, Inc. (Employer)

On November 22, 1989, Employer sent the following letter to Respondent:

> A. R. Mick Mynsted
> Local Union 118
> 2840 El Centro Road
> Suite 118
> Sacramento, CA 95833
>
> Dear Mr. Mynsted,
>
> To avoid the embarrassment of invoking our right of rejection under Section 4E and 5E of the Ironworkers Agreement, we request that Larry Muller, social security number 569–90–2781 *not* be dispatched to any of our proiects.

Thank you in advance for your consideration in this matter.

Sincerely yours,
/s/ Dennis A. McEuen
Vice President

[R. Exh. 1]

The author of the letter, Dennis McEuen, testified for Respondent. According to McEuen, Employer did not consider Muller to be a satisfactory employee. More specifically, McEuen described Muller as not qualified to do his job and combative in nature. On one project, in 1989 Muller quit in the middle of the job and a replacement had to be found.[2] This testimony apparently was a reference to a job performed by the employer for Wells Fargo. During that job, Muller got into an argument with an employer foreman named Taylor. This argument rapidly escalated into a near physical confrontation before the two men were separated by others.

After Respondent received Employer's letter above, McEuen talked to Respondent's business manager and witness at hearing, Mickey Mynsted. The latter explained to McEuen that notwithstanding the letter, Respondent was required to refer Muller to the Employer, if he was next up on the out-of-work board and desired to take the dispatch.

Sometime prior to May, Mynsted told McEuen that he had discussed the letter recited above with Muller.

McEuen described the request for two employees which Employer had called into Respondent on May 21 (R. Exh. 2). Although the jobs were expected to last only for about 1-1/2 weeks, the actual time was closer to about 4 weeks. According to McEuen, if Muller had been dispatched for the bolt-up job, Employer would have exercised its right under section 5E of the CBA quoted above and in accord with the letter (R. Exh. 1) also recited above, paid Muller his show-up time, and sent him back to the hiring hall.

4. Larry Muller

Testifying as the only witness for General Counsel in his case-in-chief, Muller testified that he has been a member of Respondent for about 19 years. He last worked on the Wells Fargo job in Sacramento, a job which ended on March 23.[3] Thereafter, Muller frequently asked Respondent's officials what construction jobs were coming up. As soon as the Wells Fargo job ended, Muller signed the out-of-work list and ensured that his card was in the appropriate position on the out-of-work board. In some cases by phone and in other cases in person, Muller continued to check the progress of his eligibility to the out-of-work board for desirable long-term jobs. According to Mynsted, Muller was known in the hall as someone who ''rides the board.'' That is, he passed up shorter jobs for which he was eligible, while awaiting for longer term jobs to turn up. This practice was not particularly unusual.

On June 27, Muller was in the hall and participated in a fight with another iron worker named Julian Villa, who did not testify. Muller was severely injured during the course of the confrontation and while testifying at the hearing, he was wearing a neck brace. Besides his physical injuries which have impaired his ability to work in his trade, Muller has no memory of the events immediately before or after the fight, or his hospital stay.[4]

The referral in issue

Muller testified that consistent with his practice of checking in the hall primarily by telephone, he called the Respondent at 646–6976 on several dates in May including May 20 (Tr. 28, 59). Muller's home telephone records were introduced to corroborate his testimony (G.C. Exh. 4a–e), but instead the records contradict Muller's testimony showing no call to the union office on May 20.

As to the key date of May 21, Muller testified on cross-examination he was at home with his wife, waiting between 8 and 10:30 a.m. for a telephone call from the Union which never came. Muller was absolutely positive he was not at the hall, because he could not afford to drive there (Tr. 53–54). In fact, according to Muller, the last time he was at the hall was in April (Tr. p. 55). Respondent impeached Muller by introducing records to show that Muller was at the hall and signed the rollcall book on May 6, 16, 20, 28, and several dates in June (R. Exh. 4).

There were three union officials in and around the hall on May 21. Mynsted testified that he believed Muller was in the hall and came up when the bolt-up job was called and Mynsted said, ''Larry you've had a lot of trouble with that Company,'' whereupon Muller passed the job (Tr. pp. 89–90, 92–93, 111). However, Mynsted candidly added he could not be certain that this exchange occurred on May 21 (Tr. 90, 93, 111).

Respondent's second official was James Murphy, a business representative who also testified as a Respondent witness. Murphy who has known Muller for 15 years, testified that on May 21, Mynsted was calling the Employer's jobs out and that Murphy was controlling the board. To Murphy's recollection, Muller was in the hall and passed on the job (Tr. 118).

The third Respondent official, Swin Sorenson, another business representative, did not testify in this matter.

According to Muller, he did not become aware of the events of May 21 until he went to the hall on June 4 and signed the rollcall book (Tr. 31). Respondent's records show that this testimony was not true and that Muller checked in by telephone, so that Respondent's secretary signed his name in the rollcall book on June 24 (Tr. 144; R. Exh. 4).

In any event, on June 24, or 1 or 2 days later, Muller went to the Employer's job where he encountered Nickelson working on the job. Muller allegedly expressed surprise to see Nickelson saying that Nickelson had been one or two cards below Muller on the board. Nickelson then allegedly said that Muller didn't get the job because he wasn't there.

According to Nickelson, he was one of five or six members in the hall on May 21. On cross-examination, he candidly stated he didn't know whether Muller was in the hall on that day or not (Tr. 153). On direct testimony, Nickelson

[2] Without providing details, McEuen referred to an earlier job in 1987, when Muller's work performance was also not satisfactory.

[3] According to Muller, he was laid off with other ironworkers due to lack of work. I find McEuen's version of how Muller happened to leave the job more credible.

[4] Muller admitted that in a prior job with an employer named Basett at a time he could not recall, Muller had been laid off for cause after another worker punched him and knocked him down (Tr. pp. 47–48).

allowed that he arrived about 8:30 a.m. and that he didn't recall seeing Muller there at any time that morning. When the job was called, Nickelson went up to the window along with two other members who were junior to Nickelson on the board. He did not see Muller go to the window (Tr. 150).

About 2 weeks or so into the job which lasted about 6 weeks, Nickelson met Muller on the job and the latter asked Nickelson how he happened to get the job. Nickelson replied that he was dispatched in the normal way. When Muller added that he was above Nickelson on the board, Nickelson made no reply, but he is not sure if Muller was above him or not (Tr. 151–152).

After Muller finished his conversation, he allegedly called Swin Sorenson to complain that Nickelson had been jumped on the board ahead of him. Sorenson promised to investigate; he called Muller back that evening to admit that a mistake had been made and that Respondent was sorry. The following day supposedly was June 27, when Muller went to the hall to talk to Mynsted about the matter and while there participated in the fight.

On July 8 or 9, Muller testified he returned to the hall and asked Murphy for certain records relating to the May 21 referral. According to Muller, Murphy refused to provide the records, but echoed Sorenson's alleged earlier admission that a mistake had been made in referring Nickelson ahead of Muller. At hearing, Murphy denied that a mistake had been made or that he had made any such statement to Muller.

B. *Analysis and Conclusion*

1. Credibility resolutions

Although Muller was impeached on several aspects of his testimony, it is nevertheless possible to ascertain what occurred.

Since Muller signed the rollcall book on May 20, it is reasonable to assume he was not likely to once again travel to the union hall on Tuesday, May 21. He testified he was at home awaiting a call which never came and I believe this aspect of his testimony.

Although Nickelson could not know for certain whether Muller was at the hall, it was likely that Nickelson would be aware of any member at the hall higher on the board than he was, especially since only five or six members were present to begin with. I find that Muller was higher on the board than Nickelson and that when the job was called, Nickelson did not see Muller go up to the window, because Muller wasn't here.

Neither Mynsted nor Murphy could make a positive statement that Muller was in the hall on May 21 and passed on the Employer's job. Moreover, Respondent failed to call Sorenson as a witness to rebut Muller's testimony that Sorenson told him that a mistake had been made in not calling Muller at home with information on Employer's job. I find that Sorenson was an agent of Respondent's, that his statement to Muller was an admission against Respondent's interest, and that Respondent's failure to call Sorenson under the circumstances here present raises an adverse inference that if he had been called, his testimony would not have been favorable to Respondent. *Teamsters Local 952 (Pepsi Cola)*, 305 NLRB 265, 274–275 (1991), and cases therein; *Rockingham Machine Lunex Co. v. NLRB*, 665 F.2d 303, 304–305 (8th Cir. 1981), cert. denied 457 U.S. 1107 (1982).

2. Respondent's hiring hall, exclusive or not

As noted above, the portion of the collective-bargaining agreement dealing with Respondent's referral system is in evidence (G.C. Exh. 2). From that exhibit, I note that an employer has the contractual right to bring in a certain number or percentage of employees onto a job outside Respondent's hiring hall. See for example section B-l, page 12 (key employees or regular employees who have been employed by an individual employer 50 percent of the working time during the prior 12 months). All or most other employees must be hired through the Union's hiring hall. This satisfies the criteria for an exclusive hiring hall. *Carpenters Local 608*, 279 NLRB 747, 754 (1986), enfd. 811 F.2d 149 (2d Cir. 1987).

In the alternative, I agree with the General Counsel (Br. p. 3, fn. 4), that the record of this case, without respect to the contractual language, shows an exclusive hiring hall arrangement by past practice and consistency in hiring those applicants referred by the Union, except of course for those members falling within section 5 employment, paragraph E, pages 15–16 of General Counsel 2 (undesirable employee). See *Plumbers Local Union No. 17 (FSM Mechanical Contractor)*, 224 NLRB 1262, 1263 (1976).

3. Did Respondent violate the Act under the facts and circumstances herein present?

Respondent operated its exclusive hiring hall pursuant to well-established practices and procedures. As the operator of an exclusive hiring hall, Respondent owes a duty of fair representation to applicants using the hall. See *Breininger v. Sheet Metal Workers Local 6*, 493 U.S. 67 (1989). As part of its duty of fair representation, the Respondent has an obligation to operate the exclusive hiring hall in a manner that is not arbitrary or discriminatory, inasmuch as the Act prohibits a labor organization from adversely affecting the employment status of someone it represents for discriminatory, arbitrary, or irrelevant reasons. *Miranda Fuel Co.*, 140 NLRB 181, 184–188 (1962). Put differently, Respondent has a duty to represent all individuals who seek to utilize the hall in a fair and impartial manner. That is, Respondent must conform with and comply lawful contractual standards in administering the referral system, and any departure from established procedures resulting in a denial of employment constitutes inherently discriminatory conduct. *Iron Workers Local 601 (Papco, Inc.)*, 307 NLRB 843, 844 fn. 8 (1992).

In *Operating Engineers Local 906 (Ford Construction)*, 262 NLRB 50, 51 (1982), the Board has also held that:

> [A]ny departure from established hiring hall procedures which result in a denial of employment to an applicant falls within that class of discrimination which inherently encourages union membership, breaches the duty of fair representation owed to all hiring hall users, and violates Section 8(b)(1)(A) and (2), unless the union demonstrates that its interference with employment was pursuant to a valid union-security clause or was necessary to the effective performance of its representative function. [Footnote omitted.]

See also *Boilermakers Local 374 v. NLRB*, 852 F.2d 1353, 1358 (D.C. Cir. 1988), quoting *Teamsters Local 519 (Rust Engineering)*, 276 NLRB 898, 908 (1985).

In the instant case, Respondent has not shown that its interference with employment of Muller was pursuant to a valid union-security clause or was necessary to the effective performance of its representative function. Rather the evidence shows that Respondent departed from its established hiring hall procedure by failing to call Muller at home to offer to him a referral to the Employer's U.S.P.O. job. Under these circumstances, I find that General Counsel has established a prima facie case that Respondent violated the Act in the particulars alleged. See *Operating Engineers Local 450 (AGC of Houston)*, 267 NLRB 75 fn. 2 (1983); *Ironworkers Local 505 (Snelson-Anvil)*, 275 NLRB 1113, 1114 (1985).

There remains now to consider the effect, if any, of the Employer's November 22, 1989 letter to Respondent (R. Exh. 1) quoted above. Certain preliminary observations must be made. First the Employer's letter was issued in good faith in reliance on the labor agreement. See *Iron Workers Local 601 (Papco, Inc.)*, supra at 844 fn. 9. Next, I find no animus by Respondent against Muller in retaliation for protected activities. I also find that in awarding the dispatch to Nickelson, Respondent's officials acted through mistake and inadvertence. However, the Employer's letter was not a factor in that mistake. Mynsted testified he told McEuen that notwithstanding Employer's letter, Respondent was required by its hiring hall procedures to refer Muller to any employer job, for which he qualified, even though Employer would exercise its right under the contract to refuse to hire Muller.

The Board has held that specific evidence of discriminatory motivation toward an alleged discriminatee is not a perquisite for establishing a violation, e.g., where a business agent uses unfettered or unbridled discretion in departing from a contract's provided objective criteria. *Iron Workers Local 601 (Papco, Inc.*), supra; *NLRB v. IBBW, Local 11*, 772 F.2d 571, 575–-576 (9th Cir. 1985).

In summary, Muller was discriminated against in violation of Section 8(b)(1)(A) and (2) because he lost an opportunity to be considered for a referral when Mynsted and Murphy violated established hiring hall procedures.[5] Employer's letter provides not a defense to the violation, but rather a bar to any backpay other than $50 show-up pay. See *Iron Workers Local 601 (Papco, Inc.)*, supra at 843.

CONCLUSIONS OF LAW

1. California Erectors, Bay Area, Inc. is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. International Association of Bridge, Structural, and Ornamental Iron Workers, Local 118, AFL–CIO is a labor organization within the meaning of Section 2(5) of the Act.

3. By its agent's failure and refusal to refer Larry Muller to employment with California Erectors, Bay Area, Inc. on May 21, Respondent has violated Section 8(b)(1)(A) and (2) of the Act as alleged in the complaint; and, the Respondent Union has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

[5] If on review, it is found that the hiring hall is not exclusive, then Respondent did not violate Sec. 8(b)(2) by not referring Muller. *Brand Mid-Atlantic*, 304 NLRB 853, 854 fn. 7 (1991).

REMEDY

Having found that Respondent has violated Section 8(b)(1)(A) and (2) of the Act, I shall recommend that it be ordered to cease and desist, and to take certain affirmative action designed to effectuate the policies of the Act. I shall further recommend that Respondent be ordered to pay Larry Muller $50 show-up pay, with interest and any other benefits to which he may have been entitled under the contract, where the Employer declines to hire the person dispatched, which loss Muller suffered as a result of the Respondent's discriminatory refusal to refer him for employment on May 21. Interest shall be computed in accord with *New Horizons for the Retarded*, 283 NLRB 1173 1987); see also *Florida Steel Corp.*, 231 NLRB 651 (1977), and *Isis Plumbing Co.*, 138 NLRB 716 (1962).

ORDER

The Respondent, International Association of Bridge, Structural, and Ornamental Iron Workers, Local 118, AFL–CIO, Sacramento, California its officers, agents, and representatives, shall

1. Cease and desist from

(a) Discriminatorily failing and refusing to refer Larry Muller to employment with California Erectors, Bay Area, Inc., or any other employer with whom it has an employment referral system.

(b) In any like or related manner restraining or coercing applicants for employment in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Pay Larry Muller $50 showup pay plus interest and any other applicable benefits in compensation for the discrimination against him, in the manner set forth in the remedy section of this decision.

(b) Preserve and, on request, make available to the Board or its agents for examination and copying, all records pertaining to employment through its hiring hall, and all records relevant and necessary for compliance with this Order.

(c) Post at its business offices, meeting halls, and dispatch halls in Sacramento, California, copies of the attached notice marked ''Appendix.''[6] Copies of the notice, on forms provided by the Regional Director for Region 20, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall be taken by Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

[6] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize
To form, join, or assist any union
To bargain collectively through representatives of their own choice
To act together for other mutual aid or protection
To choose not to engage in any of these protected concerted activities.

WE WILL NOT discriminatorily fail and refuse to refer Larry Muller to employment with California Erectors, Bay Area, Inc., or any other employer with which we have an employment referral system.

WE WILL NOT in any like or related manner restrain or coerce applicants for employment in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL pay Larry Muller $50 showup pay with interest together with applicable benefits to compensate him for our unlawful failure to refer him to employment with California Erectors, Bay Area, Inc. on May 21, 1991, even though Employer would have lawfully declined to employ Muller.

INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL, AND ORNAMENTAL IRON WORKERS, LOCAL 118, AFL–CIO